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Congress of the United States  
House of Representatives  
Washington, DC 20515-2215

March 4, 2009

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The Honorable Nancy A. Nord  
Acting Chairman  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

The Honorable Thomas Hill Moore  
Commissioner  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

Dear Acting Chairman Nord and Commissioner Moore:

As an author of the original Consumer Product Safety Act in 1972 and a long-standing advocate for better protections for our Nation's consumers, I wholeheartedly support a stronger regulatory framework to ensure the safety of children's products. Nevertheless, I share the reasoned concerns of my colleagues, House Committee on Energy and Commerce Chairman Waxman, Subcommittee on Commerce, Trade, and Consumer Protection Chairman Rush, Senate Committee on Commerce, Science, and Transportation Chairman Rockefeller, and Subcommittee on Consumer Protection, Insurance, and Automotive Safety Chairman Pryor, about the implementation of the Consumer Product Safety Improvement Act (PL 110-314, "the Act"). In particular, I am troubled that the Act includes unrealistic deadlines for rulemakings and compliance, as well as too little implementation discretion for the Consumer Product Safety Commission (CPSC), both of which are exacerbated by CPSC's lack of adequate resources, both in terms of funding and staff.

In describing the implementation of the Act, Acting Chairman Nord's January 30, 2009, letter to the Congress maintains, "the timelines in the law are proving to be unrealistic, and [CPSC] will not be able to continue at this pace without a real risk of promulgating regulations that have not been thoroughly considered." Moreover, the letter states, "Although [CPSC] staff has been directed to move as quickly as possible to complete its work, short-circuiting the rulemaking process gives short shrift to the analytical discipline contemplated by the statute." In light of these statements, I would appreciate your candid responses to the following questions, which will assist me and my colleagues in our consideration of common-sense and workable solutions to some of the more pressing problems that have arisen during the Act's implementation:

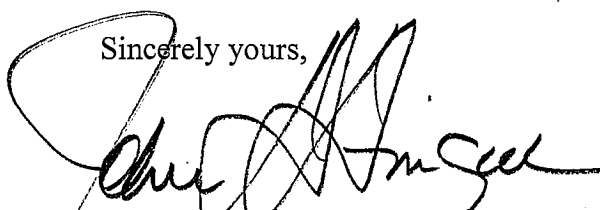
1. To what extent has robust implementation of the Act been hampered by CPSC's lack of resources? What levels of funding and staffing does CPSC believe necessary for proper implementation of the Act?
2. Given the paramount importance of ensuring children's safety and the overall mission of CPSC, to what extent are the deadlines in the Act practicable for CPSC and industry to meet acting with all deliberate speed? If these deadlines are not practicable, what revisions to them does CPSC suggest?
3. Does CPSC have quantitative data concerning any negative impact of the Act (*i.e.*, the lead and phthalate limits and testing requirements) on small manufacturers of children's products, and if so, would CPSC please provide them? What information does CPSC have on any such negative impact of a more anecdotal nature?
4. Does CPSC have any suggestion for how to mitigate any such economic impact of the Act on small manufacturers of children's products (*e.g.*, component testing for lead and phthalate content) that, in accordance with the intent of the Act and the CPSC's mission, will not compromise the health and safety of children using them?
5. What information has CPSC received about the impact of the Act on the availability of second-hand products for children, especially clothing? It is my understanding that many second-hand stores now refuse to sell children's products. Does CPSC have any suggestions for how to mitigate any negative effects of the Act on second-hand stores for children's products, especially in light of the recent economic downturn and the consequent increased need for low-cost sources of children's clothing?
6. Does CPSC believe that the age limit contained in the Act's definition of "children's products" (*i.e.*, 12 years and under) is appropriate? If not, what should the age limit be? Further, should CPSC have the discretion to lower the age limit for certain groups of children's products for which the risk of harm from lead or phthalate exposure is remote to non-existent (*e.g.*, snaps or zippers on children's clothing)?
7. Although some youth all-terrain vehicles (ATVs) and youth motorcycles are intended for use by children under 12 years of age, does CPSC believe it is necessary that these products be tested for lead and phthalate content? Similarly, does CPSC believe that these products present a risk to children for the absorption of phthalates or lead?
8. In light of recent court decisions that the lead and phthalate content restrictions are retroactively applicable, does CPSC have concerns about the effect on the environment of the disposal of inventories of non-compliant children's products?

9. I understand that, since early December 2008, CPSC has had access to a large number of lead content test results for finished "ordinary books" (*i.e.*, books published in cardboard or paper by conventional methods and intended to be read by or to children age 12 or under) and their component materials (*i.e.*, paper, paperboard, ink, adhesives, laminates, and bindings). Have CPSC staff reviewed those test results? What do those test results indicate about such ordinary books and component materials in connection with the statutory lead limits prescribed in Section 101(a) of the Act? Does CPSC have any recommendations regarding how to mitigate the burdens that the testing and certification requirements of the Act, and especially the retroactive applicability of those requirements to inventory, could otherwise impose on publishers, printers, and retail sellers of such ordinary books, as well as on libraries, schools, charities and other second-hand distributors of such ordinary books, including those published before 1985?
10. In general, does CPSC believe that the Act was written with too little implementation discretion for the Commission? If this is the case, for which issues (*e.g.*, third party testing requirements) does CPSC require more discretion?

Please provide your responses to my office by **no later than the close of business on Friday, March 13, 2009**. I intend to work with my colleagues in the House and Senate to resolve these issues, as well as call on Chairman Waxman and Chairman Rush to hold hearings on problems arising from Act's implementation. Your responses to these questions will be invaluable in preparing Members of Congress for a frank discussion about several of the Act's apparent shortcomings. Should you have any questions, please feel free to contact me or Andrew Woelfling on my staff at 202-225-4071.

With every good wish,

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Dingell", written over a large, stylized circular flourish.

John D. Dingell  
Chairman Emeritus  
Committee on Energy and Commerce

cc: Representative Nancy Pelosi, Speaker of the House of Representatives  
Representative Steny Hoyer, Majority Leader  
Representative Henry A. Waxman  
Representative Rick Boucher  
Representative Frank Pallone, Jr.  
Representative Bart Gordon

Representative Bobby L. Rush  
Representative Anna G. Eshoo  
Representative Bart Stupak  
Representative Eliot L. Engel  
Representative Gene Green  
Representative Diana DeGette  
Representative Lois Capps  
Representative Mike Doyle  
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Representative Sue Wilkins Myrick  
Representative John Sullivan  
Representative Tim Murphy  
Representative Michael C. Burgess  
Representative Marsha Blackburn  
Representative Phil Gingrey  
Representative Steve Scalise  
Senator Harry Reid, Majority Leader  
Senator John D. Rockefeller, IV  
Senator Daniel K. Inouye  
Senator John F. Kerry  
Senator Byron L. Dorgan  
Senator Barbara Boxer  
Senator Bill Nelson  
Senator Maria Cantwell  
Senator Frank R. Lautenberg  
Senator Mark Pryor  
Senator Claire McCaskill  
Senator Amy Klobuchar  
Senator Tom Udall  
Senator Mark Warner  
Senator Mark Begich  
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Senator Jim DeMint  
Senator John Thune  
Senator Roger Wicker  
Senator Johnny Isakson  
Senator David Vitter  
Senator Sam Brownback  
Senator Mel Martinez  
Senator Mike Johanns